

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Writ Petition No.3203 of 2006

Mr.Sampat S. Birje	Petitioner
Vs.	
Shri Bahuballi Zilha Nagari	
Sahakari Patsanstha Maryadit & ors.	Respondents

Mr.A.S.Desai for petitioner.
Mr.Uday P.Warunjikar for respondent no.1.
Mr.R.M.Patne, AGP for State.

CORAM: B.H.MARLAPALLE,J.

June 05, 2006.

P.C.

. Heard Mr.Desai, the learned counsel for the petitioner who filed an application claiming to be an application under Section 9A of CPC raising the issue of limitation in an application for recovery under Section 101 of the Maharashtra Co-operative Societies Act. The Asst. Registrar of Co-operative Societies by his order dated 2/1/2006 directed the said application to be heard along with the main application and aggrieved by the said order the petitioner filed Revision Application No.27 of 2006 before the Divisional Joint Registrar of Co-operative Societies. The revision application has been rejected by the impugned order dated 17/3/2006 observing that the application filed under Section 9A of CPC is still pending for decision.

. It is clear that the issue raised in the application filed by the petitioner is only regarding the limitation for filing an application for recovery under Section 101 of the Maharashtra Co-operative Societies Act and it is not an application on the point of jurisdiction, territorial or pecuniary, and, therefore, there is nothing wrong if the Asst. Registrar ordered that the said application will be decided along with the main application. It is well settled that the issue of limitation could be decided along with all other issues and, therefore, the Divisional Joint Registrar rightly refused to entertain the revision application.

. It has been pointed out by the learned counsel for the petitioner that in similarly filed cases before the Asst. Registrar, this Court has directed the applications filed under Section 9A of CPC to be decided first before deciding the application under Section 101 of the Maharashtra Co-operative Societies Act on merits. If that be so, the Asst. Registrar may call club all the applications together and decide the preliminary issue as directed by this Court in Writ Petition Nos.2881, 2884 and 2890 of 2006.

. Save and except the above observations, there
is no ground made out to cause interference in the
impugned order and, therefore, the petition is
rejected summarily.

(B.H.MARLAPALLE,J.)